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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,566	09/04/2003	Daniel Ewert	2575.04US02	6435

24113 7590 03/03/2006

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EXAMINER

WALTERS, JOHN DANIEL

ART UNIT PAPER NUMBER

3618

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/655,566	EWERT, DANIEL	
	Examiner	Art Unit	
	John D. Walters	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 19-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 1 – 17 and 19 – 23 have been examined. Claim 18 has been canceled by Applicant.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss et al. (2002/0,017,411) in view of Friday (5,329,787). Weiss discloses a mobilized storage container comprising:

- a load carrying body (Fig. 1A, item 12);
- a handle (Fig. 1A, item 24);
- a plurality of wheels (Fig. 1A, items 20a, 20b, 20c, and 20d);
- a power source, i.e. battery (Fig. 3, item 50);
- a drive assembly (Fig. 3, item 48);
- a steering assembly (Fig. 3, item 46);
- a receiver, i.e. control box (Fig. 3, item 52);
- a remote controller (Fig. 1B);

- wherein the remote communication is via a wireless communications protocol or via a control wire (paragraph 10, lines 3 and 4);
- wherein the wireless communication protocol consists of "radio frequency (RF), infrared, or the like" (paragraph 36, lines 6 and 7);
- wherein the carrying body comprises a thermal cooler, i.e. has an insulated body and cover (paragraph 27, lines 8 – 11 & paragraph 32);
- wherein the drive assembly is maintained within the confines of said load carrying body (Fig. 1A);
- wherein the receiver is mounted to said load carrying body (Fig. 3, item 52);
- wherein said steering assembly is maintained within said load carrying body (Fig. 3, item 46);
- wherein a steered direction of said container is either a straight line or an arc, i.e. forward and reverse throttle control and left and right steering (paragraph 36, lines 8 and 9).

Weiss does not provide a separate compartment for the drive and steering mechanisms. Friday, however, discloses a cooler comprising:

- a secondary space that is separated from the main storage compartment (Fig. 3, items 20 and 21);
- wherein said spaces are separated by an integrally molded perimeter bracket, i.e. partition wall (Fig. 3, item 15);
- wherein a loading floor is selectively removable and sealingly isolated (Fig. 2, item 30).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the dual space structure of Friday with the mobilized storage container of Weiss in order to provide a mobilized storage container which separates the storage area from the internal mechanisms which drive and control said container.

Claims 11 – 17 and 19 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss et al. (2002/0,017,411) in view of Friday (5,329,787) as applied to claims 1 – 10 above, and further in view of Young (4,964,265). Weiss in view of Friday does not discuss specifics of said remote controller's radio transmitter nor does it contain a separate motor for turning said vehicle. Young, however, discloses a remote control lawn mower comprising:

- a multi-channel transmitter and receiver (column 3, lines 5 and 6);
- a turning motor (Fig. 1, item 75).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the transmitter of Young with the mobilized storage container of Weiss in view of Friday in order to provide two control channels for use in manipulating the device. It also would have been obvious to one of ordinary skill in the art at the time of applicant's invention to add the turning motor of Young with the mobilized storage container of Weiss in view of Friday in order to provide directional control that did not require power from, i.e. remove power from, a motor dedicated to providing locomotion.

***Response to Arguments***

Applicant's arguments, see page 12, filed 12/07/2005, with respect to the oath/declaration have been fully considered and are persuasive. The objection of 9/16/2005 has been withdrawn.

Applicant's arguments, see page 12, filed 12/07/2005, with respect to the specification have been fully considered and are persuasive. The objection of 9/16/2005 has been withdrawn.

Applicant's arguments, see page 13 and 14, filed 12/07/2005, with respect to the rejection(s) of claim(s) 1 – 7, 10 – 14, 17, and 18 under 35 U.S.C. § 102(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the previously presented prior art references. See the above rejection for specifics.

Applicant's arguments filed 12/07/2005 with regards to the rejections under 35 U.S.C. § 1023(a) have been fully considered but they are not persuasive.

Applicant states, "...Weiss et al. fails to disclose a separate compartment for the drive and steering mechanisms...Friday lacks any disclosure relative to isolating a storage space from a compartment mounting space...Young fails to cure the aforementioned deficiencies..."

While the supplied prior art references do not disclose a separate compartment specifically created for the holding of drive and steering components, Friday teaches the use of separate storage compartments for differing types of cargo. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to separate the vehicles cargo, especially if a food product, from the power and steering components in order to lessen the chances of contamination of said cargo. The separate compartments of Friday accomplish this purpose.

For this reason the rejection, as written above, stands.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John D. Walters  
Examiner  
Art Unit 3618

JDW  




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